In the High Court of Judicature at Madras

Dated:04.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.257 of 2006

Murugan .. Petitioner

vs.

1. State of Tamil Nadu rep. by
its Secretary
Prohibition & Excise Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009.

2. The District Collector &
District Magistrate
Tiruvannamalai District
Tiruvannamalai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus to call for the records in connection with detention order passed in D.O.No.6/2006-C2 dated 29.1.2006 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the detenu Parvathy, W/o. Murugan, who is confined in Special Prison for Women, Vellore before this Hon'ble Court and set her at liberty as stated therein.

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For petitioner : Mr. T. Munirathinam Naidu
for Mr. V.R. Appaswamee

For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Murugan, challenges the impugned order of detention dated 29.01.2006, detaining his wife Parvathi, as "Boot-Legger" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was delay in considering the representation of the detenue, which vitiates the ultimate order of detention. With reference to the said claim the learned Additional Public Prosecutor has placed details, which show that the representation of the detenue dated 22.02.2006 was received by the Government on 23.02.2006 and remarks were called on 24.02.2006, remarks were received on 09.03.2006. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 10.03.2006; order was passed by the Minister for Prohibition and Excise on 13.03.2006, rejection letter was prepared on 15.03.2006; the same was sent to the detenue on 16.03.2006 and the rejection letter was served on the detenue only on 18.03.2006. As rightly pointed out though the remarks were called for from the Sponsoring authority on 27.02.2006, there is no explanation or reason for not forwarding the same to the Government till 02.03.2006. In the absence of any explanation, we hold that there is a delay between 27.02.2006 and 02.03.2006. On this ground, the impugned detention order is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenue is directed to be set at liberty forthwith from the custody unless she is required in connection with any other case.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary to Government
   of Tamil Nadu
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The District Collector &
   District Magistrate
   Tiruvannamalai District
   Tiruvannamalai.

3. The Director General of Police
   Chennai 4.

4. The Superintendent
   Special Prison for Women
   Vellore.

5. The Public Prosecutor
   High Court, Madras.

1 cc to Mr.V.R.Appaswamee, Advocate, SR.28405

vc (co)

dv/7.7.06

Order in
H.C.P.No.257 of 2006

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